

EDWARDS ANGELL PALMER & DODGE LLP

111 Huntington Avenue Boston, MA 02199 617.239.0100 fax 617.227.4420 capdlaw.com

John D. Hughes
617.951.3373
fax 888.325.9109
jhughes@capdlaw.com

September 15, 2011

BY FAX (212-805-7949)

Honorable P. Kevin Castel
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

MEMO ENDORSED

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9-16-11

Re: Illinois National Insurance Co. et al v. Tutor Perini Corp. No. 1:11-cv-00431

JOINT REQUEST BY THE PARTIES TO EXTEND DISCOVERY DEADLINES

Dear Judge Castel:

The Plaintiff Chartis Insurers¹ and Defendant Tutor Perini Corporation ("Tutor Perini") (the "Parties") submit this joint request, pursuant to section 2(C) of your Honor's Individual Practices, to extend the discovery deadlines in the civil case management plan. The Parties have diligently pursued discovery. However, the interplay between the current scheduling plan and Tutor Perini's motion to dismiss has created the dilemma of the discovery period soon closing before Tutor Perini has answered or asserted its counterclaims.

Pursuant to the June 21, 2011 Civil Case Management Plan, the Chartis Insurers were granted "leave to amend to add the MTA"; the Amended Complaint was to be filed by June 28, 2011; requests for documents and interrogatories were to be served by July 21, 2011; depositions and requests for admission were to be completed by September 21, 2011; and fact discovery was to close on October 28, 2011.

The Chartis Insurers filed an Amended Complaint on June 28, 2011. Tutor Perini on July 14, 2011 moved to dismiss and/or strike the MTA as a named plaintiff (Dkt. No. 20). That motion is currently pending. As a result, Tutor Perini has not answered the Amended Complaint or asserted counterclaims. The Parties have engaged in significant discovery. The Chartis Insurers and Tutor Perini have each propounded and responded to requests for production and interrogatories served on one another. The Parties are currently engaged in a voluminous document production, and a number of initial deposition notices have been issued.

The Parties request additional time to coordinate their extensive document production, to conduct discovery concerning any defenses and/or counterclaims Tutor Perini may assert, and to then to conduct depositions. The parties will continue to work on their document productions.

¹ Illinois National Insurance Company, The Insurance Company of the State of Pennsylvania, and National Union Fire Insurance Company of Pittsburgh, PA.

EDWARDS ANGELL PALMER & DODGE LLP

Honorable P. Kevin Castel
September 15, 2011
Page 2

The Parties, however, believe that any discovery concerning Tutor Perini's defenses and counterclaims should take place after Tutor Perini has answered and asserted any counterclaims, and that all depositions should take place thereafter so that all issues can be addressed in such depositions.

Accordingly, the Parties respectfully request that the deadlines be extended as follows:

- Requests for production and interrogatories concerning Tutor Perini's defenses and/or counterclaims served by: 30 days after Tutor Perini's answer.
- Depositions to be completed by: 120 days after Tutor Perini's answer.
- Discovery to be completed by: 120 days after Tutor Perini's answer.

In the event that the Court prefers to identify specific dates for such deadlines, the Parties would propose the following dates:


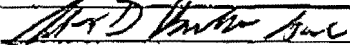
- Requests for production and interrogatories concerning Tutor Perini's defenses and/or counterclaims served by: November 15, 2011
- Depositions to be completed by: February 28, 2012
- Discovery to be completed by: February 28, 2012

The dates are adopted as the schedule of the Court.


Attached is a proposed Amended Civil Case Management Plan. Thank you for your consideration.

Next conference is March 16, 2012 at 10:30 am

Very truly yours,

 John D. Hughes Edwards Angell Palmer & Dodge LLP Attorneys for the Chartis Insurers	 Alex D. Hardiman Anderson Kill & Olick, P.C. Attorneys for Tutor Perini Corporation
--	---

cc: Diane J. Morgenroth, Esq.
Thomas Hanley, Esq.
BOS 883068.1

SO ORDERED

 9-15-11